

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel,)
W.A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA,)
et al.)
Plaintiffs,)
V.) No. 05-CV-329-GKF-SAJ
TYSON FOODS, INC., et al.,)
Defendants.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

FEBRUARY 20, 2008

PRELIMINARY INJUNCTION HEARING

VOLUME II

BEFORE THE HONORABLE GREGORY K. FRIZZELL, Judge

APPEARANCES:

For the Plaintiffs: Mr. Drew Edmondson
Attorney General
Mr. Robert Nance
Mr. Daniel Lennington
Ms. Kelly Hunter Burch
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Exhibit 61

Glen R. Dorrough
UNITED STATES COURT REPORTER

1 Q. All right. Well, then let's go through it and see what
2 I've missed here. We have all the Oklahoma data in the first
3 chart which, I think, is similar to what we just saw, is it
4 not?

5 A. That one is the same, yes.

6 Q. So the next chart is, in fact, the Illinois River; is that
7 correct?

8 A. That's correct. So the same ODAFF data were analyzed for
9 just the Illinois River Watershed and similar graphs were
10 produced as to the ones we've just talked about.

11 Q. And what does it tell us that happens in the Illinois
12 River Watershed?

13 A. It's a very similar story. I guess the slight exception
14 is that, in fact, waste is disposed of even closer to houses in
15 the IRW than the rest of Oklahoma. So again, approximately 30
16 percent within a mile, 60 percent within about two miles -- or
17 67 percent within two miles or so, and 80 percent within
18 approximately 3.6 miles or so.

19 Q. From the ODAFF records, can you tell when these land
20 applications occurred?

21 A. Well, some of the ODAFF records do identify the timing of
22 land application. So not all of those records identify timing.
23 For those for which timing could be identified and for which
24 the land application was in the Illinois River Watershed, that
25 analysis was conducted.

1 Q. And is the last chart in this Exhibit 132 reflective of
2 that analysis?

3 A. Yes, so Figure 5 identifies the timing of litter onto the
4 land within the IRW based on the ODAFF records between '99 and
5 2004.

6 Q. And what is this chart essentially telling us about that
7 application?

8 A. Well, this shows that the majority of the waste disposal,
9 about 55 percent of waste disposal, occurred between February
10 and May for that time period.

11 Q. Now, did you also have an opportunity in looking at
12 Rausser and Dicks' declaration prepared for the defendants in
13 this case, if he made or they made any determination about
14 where poultry waste is applied?

15 A. Yes, the Rausser and Dicks information indicated that all
16 345,000 tons of poultry waste that was generated in the IRW was
17 applied in the IRW based on their base assumption.

18 MR. GARREN: One moment. I'll pass the witness, Your
19 Honor.

20 THE COURT: Cross-examination.

21 MR. GEORGE: Your Honor, my examination will probably
22 take about 40 minutes. I don't know if that should be factored
23 into an afternoon break, whether you'd rather do it now or
24 later.

25 MR. GARREN: If I may move for the admission of the